

**ORIGINAL**

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

**RECEIVED**  
MAR 26 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of

<b>Long Term Telephone Number Portability Tariff Filings of</b>	)	CC Docket No. 99-35
<b>Ameritech Operating Companies</b>	)	Transmittal Nos. 1186, 1187
<b>GTE Systems Telephone Companies</b>	)	Transmittal No. 271
<b>GTE Telephone Operating Companies</b>	)	Transmittal No. 1196
<b>Pacific Bell</b>	)	Transmittal No. 2029
<b>Southwestern Bell Telephone Company</b>	)	Transmittal No. 2745

**PETITION FOR PARTIAL RECONSIDERATION OF  
ORDER DESIGNATING ISSUES FOR INVESTIGATION**

**RECEIVED**  
MAR 26 1999  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Personal Communications  
Industry Association  
500 Montgomery Street,  
Suite 700  
Alexandria, VA 22314

Arch Communications Group, Inc.  
1800 West Park Drive  
Suite 250  
Westborough, MA 01581

March 26, 1999

No. of Copies rec'd  
List A B C D E

076

## **Table of Contents**

	Page
Summary .....	ii
I. Arch and PCIA are Interested Parties .....	3
II. Good Cause is Shown for Considering This Petition .....	5
III. The Proposed Type 1 Charge is Unlawful .....	9
Conclusion .....	15

### **Summary**

Arch Communications Group and the Personal Communications Industry Association (collectively, "Petitioners") are seeking partial reconsideration of the Order Designating Issues for Investigation in CC Docket No. 99-35. Petitioners are asking the Commission to clarify, modify or enlarge the issues to include inquiry into the propriety of Ameritech, and perhaps the other LEC parties, imposing monthly service provider number portability ("SPNP") charges on commercial mobile radio service ("CMRS") carriers who utilize Type 1 interconnection trunks.

The petition establishes that the Commission has the authority to grant the relief requested even though Petitioners have not participated earlier in the proceeding. Good cause is shown for filing the petition at this time, and the issue raised is worthy of consideration under the Commission's public interest mandate.

The petition demonstrates that Ameritech has failed to meet its burden of establishing the lawfulness of imposing the SPNP charge on CMRS Type 1 interconnections trunks. CMRS carriers are not end users, are not resellers and are not purchasers of switched ports as unbundled network elements. Thus, CMRS carriers using Type 1 trunks are not within the universe of customers or carriers who are subject to monthly portability charges under Section 52.33(a) of the Commission's rules.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of

<b>Long Term Telephone Number Portability Tariff Filings of</b>	)	CC Docket No. 99-35
<b>Ameritech Operating Companies</b>	)	Transmittal Nos. 1186, 1187
<b>GTE Systems Telephone Companies</b>	)	Transmittal No. 271
<b>GTE Telephone Operating Companies</b>	)	Transmittal No. 1196
<b>Pacific Bell</b>	)	Transmittal No. 2029
<b>Southwestern Bell Telephone Company</b>	)	Transmittal No. 2745

To: The Deputy Chief, Common Carrier Bureau

**PETITION FOR PARTIAL RECONSIDERATION OF  
ORDER DESIGNATING ISSUES FOR INVESTIGATION**

Arch Communications, Inc. ("Arch") and the Personal Communications Industry Association ("PCIA"), collectively referred to hereafter as "Petitioners," pursuant to Section 1.106 of the Commission's Rules,<sup>1/</sup> hereby respectfully petition the Common Carrier Bureau to reconsider one aspect of the Order Designating Issues for Investigation, DA 99-374, released February 26, 1999 (the "Designation Order") in the above-captioned proceeding. Specifically, Petitioners ask the Commission to clarify the matters under consideration - - or expand the scope of the Section 204 tariff investigation, if necessary<sup>2/</sup>

---

<sup>1/</sup> 47 C.F.R. §1.106

<sup>2/</sup> As is discussed in paragraph below, the issue the Petitioners are asking the  
(continued...)

- - in order to address the issue of whether it is appropriate for the Ameritech Operating Companies ("Ameritech"), GTE Systems Telephone Companies and GTE Telephone Operating Companies collectively ("GTE"), Pacific Bell ("PacBell") and Southwestern Bell Telephone Company ("SWBT") to impose their proposed monthly number portability charge on Type 1 interconnection trunks provided to commercial mobile radio service ("CMRS") carriers. As is set forth in detail below, wireless carriers with Type 1 interconnection facilities are not "end users" of the incumbent local exchange carrier ("ILEC") services, are not resellers of the ILEC's services, and are not purchasers of switching ports as unbundled elements, and thus are not within the categories of customers or carriers specified in the Commission's Third Report and Order<sup>3/</sup> who would be subject to a monthly number portability charge. See 47 C.F.R. § 52.33 (a). In support of this Petition, the following is respectfully shown:

---

2/ (...continued)

Commission to explore could be deemed to fall within the scope of Section V of the Designation Order which requires the LECs who are parties to the investigation to "provide more complete explanations of their bases for allocating number portability costs among services and why their methods are reasonable." Designation Order, p. 13. Petitioners are filing this Petition in an abundance of caution so that the particular aspect of this issue of concern to Petitioners - - namely the propriety of allocating any portion of the costs to wireless Type 1 interconnection trunks - - is properly addressed.

3/ In the Matter of Telephone Number Portability, Third Report and Order, 13 FCC Rcd 11701, paras. 142 to 146 (1998).

## **I. Arch and PCIA Are Interested Parties**

1. Arch is one of the largest providers of narrowband wireless services in the United States.<sup>4/</sup> Arch utilizes a broad variety of facilities to interconnect its wireless communications networks with the public switched telephone network (the "PSTN"), including Type 1 interconnection trunks<sup>5/</sup> secured from Ameritech, GTE, PacBell and SWBT.

2. PCIA is an international trade association which has as members a broad cross section of one-way and two-way broadband and narrowband wireless service providers.<sup>6/</sup> PCIA's members also utilize a variety of facilities to interconnect their wireless networks with the PSTN, including Type 1 interconnection trunks.

---

<sup>4/</sup> Arch is a leading provider of wireless messaging services, primarily paging services, and is the third largest paging company in the United States with approximately 4.2 million pagers in service. Arch operates in 41 states and in more than 180 of the 200 largest markets in the United States. Detailed ownership information about Arch is on file with the Commission.

<sup>5/</sup> A Type 1 interconnection trunk provides a connection between the wireless network and the LEC's serving end office.

<sup>6/</sup> PCIA is an international trade association created to represent the interests of the commercial and private mobile radio service communications industries. PCIA's Federation of Councils includes: the Paging and Messaging Alliance, the Broadband PCS Alliance, the Wireless Broadband Alliance, the Mobile Wireless Communications Alliance, the Site Owners and Managers Association, and the Private System Users Alliance. In addition, as the FCC-appointed frequency coordinator for the 150-512 MHz frequency bands in the Business Radio Service, the 800 and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of licensees.

3. Arch and PCIA recently have come to recognize that they have a cognizable interest in the long-term telephone number portability tariff filings submitted by the ILECs which are the subject of this proceeding. As is discussed in greater detail within, Ameritech is proposing in its FCC Tariff No. 2, Section 4.7, to impose its monthly Service Provider Number Portability ("SPNP") charge on "Type 1 Wireless ... customers."<sup>7/</sup> The GTE, PacBell and SWBT tariffs make no specific mention of "Type 1 Wireless customers", but Arch and PCIA fear that these LECs may seek to construe their tariffs to cover wireless Type 1 interconnection facilities if Ameritech is allowed to impose its SPNP charge on such facilities.<sup>8/</sup> Consequently, Arch and other wireless carriers represented by PCIA may be adversely affected by the tariffs that are under investigation in this proceeding.

---

<sup>7/</sup> The quoted phrase "Type 1 Wireless ... customers" is used in the Ameritech tariff. As is discussed in detail within, Petitioners do not agree that they are properly viewed as "customers" of the ILECs when they interconnect. Rather, they are co-carriers.

<sup>8/</sup> The GTE Tariff FCC No. 1 specifies SPNP charges "per PBX trunk" (Section 6.16). PacBell Tariff FCC No. 128 provides for its SPNP charge to apply to "PBX trunks" and to certain "lineside access carriers" (Section 13.3). Likewise, SWBT's FCC Tariff No. 1 refers to "lineside access" and "PBX trunks" (Section 34.4). Arch and PCIA do not believe that these references are properly construed to apply to Type 1 trunks used by CMRS carriers. However, Ameritech has sought to defend its proposed charge by analogizing a Type 1 trunk to a PBX local exchange trunks. See Attachment 1.

## **II. Good Cause is Shown for Considering This Petition**

4. The Commission previously has held that a petition seeking reconsideration of an order designating a tariff for investigation is an appropriate procedural vehicle for asking the Commission to modify, clarify or enlarge the scope of the designated issues. In AT&T Communications (CC Docket No. 85-326), 1 FCC Rcd 930 (1986), the Commission ruled that:

a petition for reconsideration that ... seeks an expansion of the scope of a Section 204 tariff investigation may ... make a sufficient contribution to the process to warrant consideration.

Id. at para. 11. In this instance, the Arch and PCIA Petition raises important public interest issues. The Commission's Third Report and Order in CC Docket No. 95-116 specifically identified the categories of customers and carriers that would be subject to a monthly federal charge to enable ILECS to recover their carrier-specific costs directly related to providing number portability. See 47 C.F.R § 52.33(a). These determinations were made in order to satisfy the Commission's statutory obligation to see that the costs of number portability are borne by telecommunications carriers on a "competitively neutral" basis.<sup>2/</sup> Obviously, it is important for the Commission to assure that ILEC tariffs only impose charges upon those categories of customers and carriers that have been found by the Commission to be properly subject to the charge. As is demonstrated below, the

---

<sup>2/</sup> 47 U.S.C. §251(e)(2).



Ameritech tariff, and perhaps the other tariffs<sup>10/</sup> violate this requirement by seeking to impose a SPNP charge upon Type 1 trunks used by CMRS carriers. This is an issue worthy of the Commission's attention.

5. Arch and PCIA have not participated in the earlier stages of this proceeding. Nonetheless, the Commission's rules permit a non-party which is adversely affected by an agency action to file a petition for reconsideration provided good cause is shown for not previously participating. 47 C.F.R. § 1.106(b)(1). In this instance, good cause exists. The Commission's Third Report and Order identified the universe of LEC customers and carriers that were subject to monthly long term number portability charges. Neither CMRS providers in general, nor users of Type 1 interconnections in specific, were among the categories designated by the Commission as being subject to the new monthly federal portability charges. Thus, neither Arch nor PCIA were on notice that the ILECs' tariffs filed pursuant to the Third Report and Order would impose charges upon them.

6. Arch first became aware of Ameritech's plan to apply its SPNP charge to Type 1 wireless interconnection trunks after Ameritech's FCC Tariff No. 2 became effective. See Attachment 1.<sup>11/</sup> Arch notified Ameritech on March 2, 1999 that

---

<sup>10/</sup> See note 7, supra.

<sup>11/</sup> PCIA became aware of the issue when it was alerted to it by Arch on March 19, 1998. Since that time, PCIA has acted diligently to confer with members of its managing council and working groups to determine whether this is an issue of general concern to its  
(continued...)

it was not an end user, not a reseller and not a purchaser of Ameritech switching ports as unbundled network elements. See Attachment 2. Consequently, Arch sought confirmation from Ameritech that the SPNP charge would not be imposed. However, by letter of March 12, 1998 (Attachment 3), Ameritech continued to assert that the charge is properly applied to CMRS providers using ILEC Type 1 interconnection trunks. Arch has acted with due diligence to bring this issue to the attention of the Commission promptly after its efforts failed to resolve the matter in direct discussions with Ameritech.<sup>12/</sup>

7. By virtue of Arch's earlier communications, Ameritech has been on notice for a considerable period of time that its proposed assessment on Type 1 wireless carriers was a matter of controversy. Moreover, in the interest of fairness Arch filed a letter with the Commission on March 23, 1999 and served copies on Ameritech alerting it of Arch's desire to expand the issues under investigation to include this wireless Type 1 issue.<sup>13/</sup> Under these circumstances, the Commission should find that

---

<sup>11/</sup> (...continued)  
members. These discussions have confirmed that PCIA's members will be adversely affected by this charge and are interested in assuring that it is not applied to Type 1 trunks.

<sup>12/</sup> Arch should not be penalized for seeking to resolve this issue directly with Ameritech before invoking the Commission's processes. Frankly, Arch considered the Commission's orders to be sufficiently detailed as to who could be charged to make further Commission involvement unnecessary.

<sup>13/</sup> See Attachment 4. Arch and PCIA also have endeavored to file this petition  
(continued...)

Arch and PCIA have acted with due diligence, and that Ameritech has been given a reasonable opportunity to prepare to address this issue in this proceeding.<sup>14/</sup>

8. Furthermore, the issue of the reasonableness of including wireless Type 1 trunks appears to be within the broad scope of the investigation specified in Section V of the Designation Order. The Commission specifically directed Ameritech, GTE, PacBell and SWBT "to provide more complete explanations of their bases for allocating number portability costs among services and why their methods are reasonable." Designation Order, para. 35. A showing as to the reasonableness of including CMRS Type 1 services among those to which number portability costs would be allocated is within the ambit of this broad investigation inquiry.<sup>15/</sup> Thus, the issues

---

<sup>13/</sup> (...continued)

before the 30 day filing deadline, and to serve the petition by facsimile on the LEC parties so that they are fully aware of the issue the Petitioners seek to explore.

<sup>14/</sup> Because the correspondence with Arch indicates that Ameritech already has given consideration to the wireless Type 1 issue and is prepared to defend the charge, there would appear to be no reason why Ameritech - - and any other LECs who propose to assess charges on CMRS carriers who utilize Type 1 interconnection trunks -- could not address this issue in their direct cases. In this regard, Petitioners note that the Commission already has extended the time by one week to April 5 for LEC parties to file their direct cases. Public Notice, DA 99-57, released March 24, 1999. Arch and PCIA also would not object if Ameritech and the other LEC's sought to address this issue in a supplemental filing provided that Arch and PCIA and other interested parties are given a reasonable opportunity to reply.

<sup>15/</sup> Arch and PCIA have conducted a preliminary review of the cost information supplied by Ameritech in support of its SPNP monthly charge and have as yet been unable to discern how Ameritech went about factoring its wireless Type 1 trunks into the calculations. Obviously, this is a matter that needs to be addressed by Ameritech in  
(continued...)

which Arch and PCIA are asking the Commission to consider already are encompassed by a fair reading of the Designation Order. As a result, the LECs should not be heard to complain about addressing this issue.

9. The rules governing reconsideration requests also allow the Commission to consider matters not previously presented when doing so is in the public interest. 47 C.F.R. § 1.106(c)(2). Here, this standard is met because of the importance the statute places upon maintaining competitive neutrality in administering long term number portability cost recovery. Any proposal by a LEC to single out a small category of competing telecommunications carriers (*i.e.*, CMRS carriers using Type 1 interconnection trunks) for disparate treatment runs afoul of the important competitive neutrality requirement.<sup>16/</sup>

### **III. The Proposed Type 1 Charge is Unlawful**

10. The Third Report and Order specifically defines the categories of customers and carriers from whom an incumbent LEC may recover its carrier-specific costs directly related to providing long-term number portability. The first group consists of "end users" who actually receive the direct benefits of long term number portability.

---

<sup>15/</sup> (...continued)  
response to the Designation Order.

<sup>16/</sup> Petitioners note that the LECs have not succeeded in avoiding their financial responsibility for interconnection facilities used to deliver LEC-originated traffic to CMRS carriers. See discussion, *infra* at para. 15. Arch and PCIA are concerned that this wireless Type 1 trunk charge is a backdoor attempt by the LECs to reestablish prohibited interconnection charges.

Third Report and Order, para. 142. Wireless Type 1 carriers do not fall into this category. CMRS companies using Type 1 interconnection trunks are co-carriers who have their own end user customers; they are not end user customers themselves. This fact has long been recognized in Commission decisions which date back to the days when CMRS carriers were referred to as "radio common carriers" or "RCCs." As the Commission held in Bell Atlantic Telephone Companies Revisions to Tariff FCC No. 1:

The Commission has held on numerous occasions that an RCC is a common carrier and not an end user. When a call originates or terminates at a mobile phone, it is the person who places or receives that call, not the RCC, who is the end user, and the connection between the end user and the switch, or MTSO in the case of cellular service, is provided by the RCC.

6 FCC Rcd 4794, para. 8 (Com. Car. Bur. 1991) (footnote omitted), *citing* FCC Policy Statement on Interconnection of Cellular Systems, 59 RR 2d 1283, 1284, para. 2 (1986) and Inquiry into the Use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Systems and Amendment of Parts 2 and 22 of the Commission's Rules Relative to Cellular Communications Systems, CC Docket No. 79-318, Report and Order, 86 FCC 2d 469, 496, para. 56 (1981), *recon.* 89 FCC 2d 58, 80-82, *further recon.*, 90 FCC 2d 571, 576-577 (1982), *appeal dismissed sub nom.* United States v. FCC, No. 82-1526 (D.C. Cir. dismissed Jan. 17, 1983). CMRS companies are telecommunications common carriers and not end users irrespective of whether they happen to utilize Type 1

or Type 2 interconnection facilities. Thus, the LECs cannot impose charges on Type 1 wireless carriers as if they are end users.

11. The Ameritech correspondence with Arch reveals that it justifies its imposition of the SPNP monthly charge by analogizing Type 1 interconnection used by wireless carriers with PBX service ordered by certain Ameritech end user customers. However, the Commission long ago rejected reasoning of this nature. In prohibiting a LEC from applying carrier common line (CCL) charges to Type 1 connections, the Commission ruled:

Bell Atlantic's comparison between Type 1 connections and PBX trunks is inappropriate ... PBX service is quite different than that of RCC interconnections. Most notably, a PBX trunk is a connection between an end user premise and a LEC switch. A Type 1 connection, on the other hand, links the LEC to the MTSO, which is not an end user premise. By treating Type 1 connections like a PBX service, ... Bell Atlantic is not conforming with Commission policy.

Bell Atlantic, *supra*, 6 FCC Rcd 4794, para. 10 (1991). The same reasoning compels the conclusion here that any functional similarity between PBX trunks and Type 1 interconnections is irrelevant. The simple fact is that wireless carriers are not end users even if they happen to utilize a Type 1 connection.

12. There are only two limited instances in which ILECs have been authorized by the Commission to impose SPNP monthly charges on other carriers. Section 52.33(a)(1) permits LNP monthly charges on (i) resellers and (ii) purchasers of an incumbent's unbundled switching ports. However, these categories also do not apply here. Wireless Type 1 carriers are not reselling the ILEC's basic exchange service.<sup>17/</sup> Rather they are providing a distinct commercial mobile radio service to their end user customers. This is not resale.

13. Nor are wireless Type 1 service providers purchasing the ILEC's unbundled switching ports.<sup>18/</sup> CMRS providers maintain their own switches and perform their own switching functions to provide their wireless service.

14. Analysis also reveals that the underlying rationale for allowing ILECs to impose monthly LNP charges on resellers and purchasers of switching ports does not extend to wireless Type 1 carriers. The ILEC may assess portability charges on resellers and those purchasing switching ports as an unbundled network element "because the incumbent LEC will be providing the underlying number portability functionality even though the incumbent LEC will no longer have a direct relationship with the end user." Third Report and Order, para. 146. This rationale does not apply to wireless Type 1 carriers. For example, Type 1 carriers providing one-way paging and other messaging

---

<sup>17/</sup> See, 47 C.F.R. § 52.33(a)(1)(B)

<sup>18/</sup> Id.

services have been completely exempted from the obligation to provide service provider portability on either an interim or long-term basis. Thus, it cannot be said that they "will receive all their number portability functionality"<sup>19/</sup> through the arrangement with the LEC. So, no rationale exists for allowing ILECs to impose monthly LNP charges on these CMRS carriers.

15. There is a separate but equally compelling reason for the Commission to reject the imposition of the SPNP monthly charges on wireless Type 1 interconnection trunks. In its Local Competition First Report,<sup>20/</sup> the Commission ruled at paragraph 1042 that a LEC must cease charging a CMRS carrier for terminating LEC-originated traffic, and must provide that traffic to the CMRS carrier without charge. This requirement is embodied in Section 51.703(b) of the Commissions rules.<sup>21/</sup> The Bureau has interpreted this rule to mean that LECs are not permitted to assess either traffic sensitive or non-traffic sensitive charges to recover the costs of dedicated facilities used to deliver their local LEC-originated traffic to wireless carriers.<sup>22/</sup>

---

<sup>19/</sup> Third Report and Order, para. 146.

<sup>20/</sup> Implementation of the Local Competition Provisions in the Telecommunications Act, First Report and Order, 11 FCC Rcd. 15499 (1996).

<sup>21/</sup> 47 C.F.R. § 51.703(b).

<sup>22/</sup> Letter from Common Carrier Bureau Chief A. Richard Metzger, Jr. to Keith Davis, *et al.*, DA 97-2726, CCB/CPD No. 97-24, released December 30, 1997, p.2. (the "Metzger Letter") (emphasis supplied). Several LECs have filed applications for review by the full Commission of the Metzger Letter, and the LEC affiliates of Southwestern  
(continued...)



16. These LEC/CMRS interconnection rulings establish that the LEC bears substantial financial responsibility for the trunks used to connect the LEC to a CMRS carrier's switch. <sup>23/</sup> It would make no sense for the Commission to allow ILECs to apply monthly SPNP charges on a per Type 1 interconnection trunk basis, when the CMRS carrier isn't even obligated to pay all of the charges associated with the trunk that forms the basis of the assessment.

17. In sum, the facts, the law and the governing policies all compel the conclusion that it is not appropriate for Ameritech or any other ILEC to impose monthly local number portability cost recovery charges on interconnection trunks used by CMRS Type 1 carriers. Since it is clear under Section 204(a)(1) of the Act that the proponent of a tariff has the burden of proof in an investigation proceeding, any proposed monthly portability charge on a CMRS carrier using Type 1 interconnection trunks cannot be sustained.

---

22/ (...continued)

Bell Corporation have sought a stay. Various wireless companies have opposed these petitions on both procedural and substantive grounds. No stay has been issued, and the Metzger Letter remains in effect.

23/ Several LECs have seized upon this fact to assert that they have the unfettered right to reconfigure existing interconnection arrangements with CMRS carriers based upon a perception that their assumption of financial responsibility means that these are their facilities to do with as they see fit.

### Conclusion

18. The foregoing premises having been duly considered, Arch and PCIA respectfully request that the Commission include in its investigation of the captioned tariffs the issue of whether the Ameritech proposal to charge "Wireless Type 1 ... customers" its recurring monthly SPNP charges is lawful. If Ameritech fails to address this issue in its direct case, Ameritech should be directed to explain any and all factual, legal and policy basis for the proposed charge. Ameritech also should be directed to identify with specificity the manner in which the proposal to charge Type 1 wireless carriers was factored into its cost studies.

As for GTE, PacBell and SWBT, these companies should be directed to advise the Commission whether they propose or intend to impose their monthly federal LNP charges on Type 1 wireless carriers. If they do, they to should be obligated to make the showings required of Ameritech.

Respectfully submitted,

ARCH COMMUNICATIONS GROUP, INC

By: Dennis M. Doyle  
Dennis M. Doyle  
Vice President-Telecommunications

PERSONAL COMMUNICATIONS  
INDUSTRY ASSOCIATION

By: Angela E. Giancarlo  
Robert L. Hoggarth, Esquire  
Senior Vice President, Paging and Messaging  
Angela E. Giancarlo, Esquire  
Director, Federal Regulatory Affairs

March 26, 1999

## **ATTACHMENT 1**

03/19/99 14:27

PCIA->Paul Hastings Janofsky &/Northrop, Carl

005

18-Mar-99 05:08pm From-

T-558 P.05 F-425  
350 North Orleans Street  
Chicago, IL 60654



Mr. Dennis Doyle  
Interconnect Analysis  
Arch Communications, Inc.  
Ste 350  
1800 West Park Dr  
Westborough MA 01581

February 3, 1999

Dear Mr. Dennis Doyle:

As you may be aware, Ameritech has added the capability for local number portability to its network as mandated by the Telecommunications Act and the Federal Communications Commission. This enables customers to keep their telephone numbers when they change local exchange carriers and is intended to stimulate competition.

Implementing this mandate required Ameritech and other incumbent local exchange carriers to add a database query system to their networks to route calls to telephone numbers that are "ported" to another carrier's switch. A recent FCC order allows telephone companies to recover the cost of the technology development, hardware and software needed for local number portability. Some of these costs will be recovered through rates for LNP Query Service, the new LNP Database Access service, and a monthly surcharge for Type 1 wireless interconnection trunks.

Effective February 1, 1999, the LNP Query Service rate on default queries will be reduced from \$.005232 to \$.003102. Since this usage is billed a month in arrears, you should see the rate change on your March 1999 billing for your February 1999 LNP Query usage.

We are also introducing a new LNP Database Access service that will allow carriers that deploy their own LNP query capability to use Ameritech's LNP database. Wireless carriers can access this LNP Database directly by using Signaling System 7 (SS7) with either AIN or IN supported protocols. The one time ordering and provisioning charges apply and the per query rate is \$.001330.

Finally, a Service Provider Number Portability Monthly Charge will be applied to Type 1 Wireless Interconnection trunks. This charge is \$3.69 per Type 1 trunk per month. This rate commences on the effective date (currently scheduled for 2/1/99) of Ameritech's tariff and continues for sixty (60) months.

If you have any questions on the new Database Access service or would like more information on how local number portability charges apply to your Ameritech service, please contact your Ameritech Information Industry Services account manager. We want to work with you to keep Ameritech your telecommunications supplier of choice.

Sincerely,

A handwritten signature in dark ink, appearing to read "Anne L. Zaczek". The signature is fluid and cursive, with the first name "Anne" being more prominent.

Anne L. Zaczek  
Vice President - Finance

TOTAL P.05

## **ATTACHMENT 2**

Arch

March 2, 1999

Ms. Anne L. Zaczek  
Vice President - Finance  
Ameritech Information Industry Services  
350 North Orleans Street, Floor 5  
Chicago, IL 60654

Re: New Ameritech Number Portability Charge

Dear Ms. Zaczek:

This letter responds to your February 3, 1999 letter (attached). In this letter you advised Arch Communications that beginning two days earlier, on February 1, 1999, Ameritech began imposing a new monthly charge on Arch — a "Service Provider Number Portability Monthly Charge." The extent of your discussion of this new charge was limited to the following three sentences:

Finally, a Service Provider Number Portability Monthly Charge will be applied to Type 1 Wireless Interconnection trunks. This charge is \$3.69 per Type 1 trunk per month. This rate commences on the effective date (currently scheduled for 2/1/99) of Ameritech's tariffs and continues for sixty (60) months.

This new charge is inconsistent with governing FCC rules and is thus unlawful.

The FCC has permitted incumbent LECs like Ameritech to impose a new monthly number portability charge to recover certain of their number portability costs, but the FCC has made clear such charges may be imposed only on end users, resellers, and carriers purchasing switching ports as unbundled network elements. FCC Rule 52.33(a)(1) provides in pertinent part:

(A) An incumbent [LEC] may assess each end user it serves . . . one monthly number-portability charge per line . . . .

(B) An incumbent [LEC] may assess on carriers that purchase the incumbent [LEC's] switching ports as unbundled network elements under section 251 of the Communications and resellers of the incumbent [LEC's] local service the same charges as described in subparagraph (a)(1)(A), as if the incumbent [LEC] were serving those carrier's end users.

Ms. Anne L. Zaczek  
New Ameritech LNP Charge  
March 2, 1999  
Page 2

Arch is not an end user; it is not a reseller; and it does not purchase Ameritech switching ports as unbundled network elements under Section 251. Accordingly, it is inappropriate for Ameritech to impose its monthly number portability charge on Arch.

CMRS providers like Arch interconnect with LECs like Ameritech using Type 1 or Type 2 interconnection — or in Arch's case, using both Type 1 and Type 2. Ameritech does not propose to assess an LNP charge on CMRS carriers interconnecting using Type 2 interconnection; indeed, such a charge would be inconsistent with Rule 52.22(a)(1). The same analysis applies to Type 1 interconnection.

One final request. Arch asks that in the future Ameritech advise it of proposed new charges *before*, not *after* Ameritech has already begun assessing the new charge. Common courtesy warrants no less.

Sincerely,



Dennis M. Doyle  
Vice President — Telecommunications  
Arch Communications Group, Inc.  
1800 West Park Drive, Suite 250  
Westborough, MA 01581-3912  
508-870-6612  
fax: 508-870-6046

cc: Patrick Beasley

## **ATTACHMENT 3**



03/19/99 14:26

PCIA->Paul Hastings Janofsky &/Northrop, Carl

002

10-Mar-99 05:07pm From-

T-558 P.02 F-425

Chicago, IL 60654  
Office 312/235-6702  
Fax 312/235-2925



James E. Devine  
General Manager  
Sales Wireless

March 12, 1999

Mr. Dennis M. Doyle  
Vice President - Telecommunications  
Arch Communications Group, Inc.  
1800 West Park Drive  
Suite 250  
Westborough, MA 01581-3912

Dear Mr. Doyle:

Thank you for your letter to Anne Zaczek of March 2, 1999, expressing your concern regarding Ameritech's authority to assess its Service Provider Number Portability (LNP) Monthly Charge to Type 1 Wireless Interconnection trunks provided to your company. I appreciate this opportunity to address your concerns and to set the record straight.

You are misinformed when you assert that the assessment of the LNP Monthly Charge by Ameritech to its Type 1 Wireless Interconnection trunks is unauthorized. Rather, the charge is specifically authorized in Ameritech's Federal Communications Commission (FCC) Tariff No. 2, Section 4.7 that the FCC permitted to go into effect on February 1, 1999.

You are also mistaken that the FCC's orders and rules exclude CMRS providers from the LNP monthly charge where they utilize Type 1 Wireless trunks to serve their customers. In fact, the FCC's Third Report and Order in CC Docket No. 95-116 at paragraph 145 specifically authorizes incumbent local exchange carriers (ILEC) like the Ameritech Operating Companies to assess the LNP monthly charge to users of PBX trunks and to resellers of the incumbent LEC's local exchange service.

Moreover, FCC Rule 47 CFR 52.33(a)(1)(A) codifies those requirements. Since, Type 1 Wireless trunks are DID, DOD PBX local exchange trunks, under the FCC's rules and orders, the charge applies. Equally as important, when CMRS providers use incumbent LEC Type 1 trunks they are reselling the incumbent LEC's Type 1 trunks to their customers, and the LNP monthly charge also applies on that basis. Further, although the FCC excluded several carrier-to-carrier services, such as access charges and unbundled local loops, it did not exclude CMRS providers or Type 1 trunks. Had it intended to do so, as it did with access charges, it would have specifically done so.

I hope this explains why we have included Type 1 Wireless Interconnection trunks for the LNP Monthly Charge. If you have any questions please call me.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Devine". The signature is written in a cursive, flowing style.

CC: Nerissa Hunt  
Anne Zaczek

## **ATTACHMENT 4**

Sent by: Arch Southwest Communicationsg 802 248 0254;

03/24/99 3:12PM; JetFax #918; Page 2/8

March 23, 1999

**Ex Parte Written Presentation**

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
The Portals  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

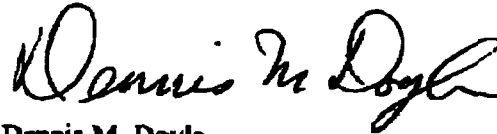
Re: Long-Term Telephone Number Portability Tariff  
Filings of Ameritech Operating Companies,  
CC Docket No. 99-35, Transmittal Nos. 1186 and 1187

Dear Madam Secretary:

Arch Communications Group, Inc, to Section 1.1206(b)(1) of the Commission's rules, hereby submits two copies of a written *ex parte* submission it made today with the Common Carrier Bureau.

Please contact the undersigned if you have any questions.

Respectfully submitted,



Dennis M. Doyle  
Vice President - Telecommunications  
Arch Communications Group, Inc.  
1800 West Park Drive, Suite 250  
Westborough, MA 01581  
508-870-6612  
(fax: 508-870-6046)

cc: Jim Devine, Ameritech (fax: 312-335-2925)  
Jane Jackson, Common Carrier Bureau (fax: 202-418-1567)  
Bruce Stroud, Ameritech (fax: 847-248-2555)  
Yog Varma, Common Carrier Bureau (fax: 202-418-2825)

Sent by: Arch Southwest Communicationsg 802 246 0254;

03/24/99 3:12PM; JetFax #918; Page 3/8

March 23, 1999

Via Facsimile

Mr. Yog R. Varma  
Deputy Chief  
Common Carrier Bureau  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W., Room C-345  
Washington, D.C. 20554  
Fax: 202-418-2825

Ms. Jane E. Jackson, Chief  
Competitive Pricing Division  
Common Carrier Bureau  
Federal Communications Commission  
The Portals  
445 12<sup>th</sup> Street, S.W., Room C-345  
Washington, D.C. 20554  
Fax: 202-418-1567

Re: Long-Term Telephone Number Portability Tariff  
Filings of Ameritech Operating Companies,  
CC Docket No. 99-35, Transmittal Nos. 1186 and 1187

Dear Mr. Varma and Ms. Jackson:

Arch Communications Group, Inc. asks the Commission to include in its investigation of Ameritech's number portability tariffs Ameritech's unilateral — and unlawful — decision to apply its new local number portability ("LNP") monthly charge on facilities-based carriers that interconnect with Ameritech using Type 1 interconnection.

FCC Rule 52.33(a)(1) permits incumbent LECs like Ameritech to impose their LNP monthly charge on end users, on resellers, and on purchasers of an incumbent's unbundled switching ports. Arch's CMRS licensee subsidiaries are not end users, they do not resell Ameritech's local service, and they do not purchase Ameritech switch ports as unbundled network elements under Section 251 of the Communications Act. Consequently, Rule 52.33(a)(1) does not authorize incumbent LECs to assess their monthly LNP charge on Arch's CMRS subsidiaries — whether they interconnect using Type 1 or Type 2 interconnection.

On February 3, 1999, *after* its LNP charge tariffs became effective, Ameritech notified Arch that it would begin imposing its new LNP charges on Arch to the extent Arch interconnects with Ameritech using Type 1 interconnection. *See* Attachment A. (Even Ameritech agrees that its new change may not be imposed on carriers using Type 2 interconnection.) Arch questioned Ameritech's right to impose this charge on March 2, 1999. *See* Attachment B. Ameritech responded on March 12, 1999 by asserting that it is Arch that is "misinformed" and "mistaken." *See* Attachment C.

While accusing Arch of being "misinformed," Ameritech does not dispute that neither Rule 52.33(a)(1) nor the Commission's *LNP Cost Recovery Order*, 13 FCC Rcd

Mr. Yog R. Varma and Ms. Jane E Jackson  
CC Docket No. 99-35, Ameritech Transmittals 1186 and 1187  
March 23, 1999  
Page 2

11701 (1998), even mentions the imposition of LNP monthly charges on carriers using Type 1 interconnection. Instead, Ameritech justifies its action by analogizing Type 1 interconnection used by CMRS carriers with DID/PBX service ordered by Ameritech's end-user customers:

Since, Type 1 Wireless trunks are DID, DOD PBX local exchange trunks, under the FCC's rules and orders, the charge applies. Attachment C.

The problem with Ameritech's rationale is that the Commission rejected it years ago:

Bell Atlantic's comparison between Type 1 connections and PBX trunks is inappropriate . . . PBX service is quite different than that of RCC interconnections. Most notably, a PBX trunk is a connection between an end user premise and the LEC switch. A Type 1 connection, on the other hand, links the LEC to the MTSO, which is not an end user premise. By treating Type 1 connections like a PBX service, . . . Bell Atlantic is not conforming with Commission policy. *Bell Atlantic*, 6 FCC Rcd 4794, 4795 ¶ 10 (1991).

In this regard, Arch notes that no other LEC has advised Arch that it intends to impose its LNP monthly charge on carriers using Type 1 interconnection — suggesting that Ameritech's novel interpretation of Rule 52.33(a)(1) is not even shared by any other LEC.

For the foregoing reasons, Arch respectfully requests that the Commission declare unlawful Ameritech's imposition of its new LNP monthly charge on carriers that interconnect with Ameritech using Type 1 interconnection.

Sincerely,



Dennis M. Doyle  
Vice President - Telecommunications  
Arch Communications Group, Inc.  
1800 West Park Drive, Suite 250  
Westborough, MA 01581  
508-870-6612

cc: Jim Devine, Ameritech General Manager - Sales Wireless (fax: 312-335-2925)  
Bruce Stroud, Ameritech Director - Federal Regulatory (fax: 847-248-2555)

**Declaration**

1, Dennis M. Doyle, do hereby declare that:

1. I am the Vice President-Telecommunications of Arch Communications Group, Inc.
2. I am familiar with the contents of the foregoing "Petition for Partial Reconsideration of Order Designating Issues for Investigation".
3. Except for the facts of which official notice can be taken, the facts set forth therein are true to the best of my knowledge, information and belief.

This declaration is given under penalty of perjury this 25<sup>th</sup> day of March, 1999.

  
Dennis M. Doyle

## CERTIFICATE OF SERVICE

I, Shandila Collins, do hereby certify that I have on this 26<sup>th</sup> day of March, 1999, caused true and correct copies of the foregoing Petition for Partial Reconsideration for Order Designating Issues for Investigation be sent by first-class United States mail, postage prepaid, facsimile, or by hand delivery to the following:

\*Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Room 222  
Washington, DC 20554

Pacific Bell and  
Southwestern Bell Telephone Company  
Robert M. Lynch  
Roger K. Toppins  
One Bell Plaza, Room 3023  
Dallas, TX 75202

\*Competitive Pricing Division  
Common Carrier Bureau  
445 12<sup>th</sup> Street, SW  
5<sup>th</sup> Floor  
Washington, DC 20554

\*GTE Service Corporation  
W. Scott Randolph  
Director - Regulatory Matters  
F. Gordon Maxson  
Director - Regulatory Matters  
1850 M. Street, NW, Suite 1200  
Washington, DC 20036-5801

\*International Transcription Service, Inc.  
1231 20<sup>th</sup> Street, N.W.  
Washington, DC 200036


\*Ameritech  
James K. Smith  
Director - Federal Relations  
Gary Lytle  
Vice President - Federal Relations  
1401 H Street, N.W.  
Suite 1020  
Washington, D.C. 20005

GTE  
Helen Hall, Director - Tariffs  
600 Hidden Ridge  
Irving, TX 75038  
(via facsimile and first class mail)  
972-718-4401

Pacific Bell  
A.E. Swan, Executive Director  
140 New Montgomery Street  
San Francisco, CA 94105  
(via facsimile and first class mail)  
415-546-4119

Southwestern Bell Telephone Company  
Sandy Kinney  
President Industry Markets  
One Bell Plaza  
Dallas, TX 75202  
(via facsimile and first class mail)  
214-464-0510

\* Denotes Hand Delivery

  
Shandila Collins